

Remarks:

Applicant has carefully studied the non-final Examiner's Action mailed 12/15/2005, having a shortened statutory period for response set to expire 03/15/2006, and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings that correspond to the centered headings employed by the Office, to ensure full response on the merits to each finding of the Office.

Claim Rejections – 35 U.S.C. § 102

Applicant acknowledges the quotation of 35 U.S.C. § 102(b).

Claims 1, 3 and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tsubo. Reconsideration and withdrawal of this ground of rejection is requested because the Tsubo device has a structure that operates in a way that would have impelled one of ordinary skill in the mechanical arts away from Applicant's invention.

Applicant's rocker plate clearly undergoes a seesaw-like action as it oscillates in a vertical plane and the items stacked atop said rocker plate also undergo the same seesaw-like action. This is the central teaching of Applicant's invention and no suggestion of such action can be found in the Tsubo disclosure.

The items in the Tsubo apparatus do not undergo such seesaw-like oscillation in a vertical plane. "L"-shaped stopper plate 46 is not the equivalent of Applicant's rocker plate because said "L"-shaped stopper plate, unlike Applicant's rocker plate, does not support paper items. The paper items in Tsubo are supported at their respective trailing ends by inclined document table 36 (col. 3, lines 12-19) and slanting plate 54 and at their respective leading ends by horizontally disposed guide plate 56 (col. 3, lines 36-43). Document table 36 and slanting plate 54 are separated from one another by opening 48. (col. 4, lines 62-67).

Significantly, document table 36 does not reciprocate in any dimension at any time. It is a stationary object. It is therefore not the equivalent of Applicant's rocker plate.

"L"-shaped stopper plate 46 has a projected strip 46A that can extend through opening 48 when said stopper plate 46 reciprocates in a vertical plane. (col. 4, lines 62-67)

"L"-shaped stopper plate 46 does not reciprocate in a vertical plane all the time. It does so only when the number of paper items in a stack supported by document table 36 is less than six (6) (col. 5, lines 32-37). If there are more than five or six original documents on document table 36, projected strip 46A drops below document table 35 and "L"-shaped stopper plate 46 does not reciprocate (col. 5, lines 23-31). This is clearly different from Applicant's rocker plate because Applicant's rocker plate reciprocates in a vertical plane whenever Applicant's apparatus is operating. Applicant's rocker plate operates without regard to the number of original documents being fed into the sheet feeder.

Nor should it be overlooked that when the Tsubo "L"-shaped stopper plate 46 is reciprocating, it does not cause document table 36 to reciprocate. Document table 36 is stationary at all times. Projected strip 46A of stopper plate 46 extends through opening 48 and strikes the original documents themselves. Such direct striking of original documents also teaches away from Applicant's invention as now claimed.

In summary, document table 36 of Tsubo does not reciprocate and therefore the original documents supported by said document table do not reciprocate. The reciprocation of "L"-shaped stopper plate 46 of Tsubo occurs only when the last few original documents are supported by the document table, and when the document table is thus lightened, "L"-shaped stopper plate 46 taps against the original documents themselves through opening 48 formed in document table 36. In fairness to Applicant, such a structure would have neither taught nor suggested Applicant's invention as now claimed.

Applicant thanks the Office for withdrawing the earlier indication of allowable subject matter that was made in the absence of Tsubo.

Claim Rejections – 35 USC § 103

Applicant acknowledges the quotation of 35 U.S.C. § 103(a).

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsubo. Although claim 4 is allowable because it depends from claim 1, it is noted for the record that Tsubo's apparatus has no part that is the equivalent of Applicant's base plate that overlies Applicant's rocker plate and thus there is no base plate in Tsubo that is longitudinally adjustable relative to a rocker plate. Again, "L"-shaped stopper plate 46 of Tsubo is not the equivalent of Applicant's rocker plate because said "L"-shaped stopper plate 46 does not support original

documents thereatop. Nor is the Tsubo document table 36 capable of being rocked in any dimension as aforesaid.

Allowable Subject Matter

4. Claim 5 stands objected to as depending from a rejected base claim, and as being in condition for allowance if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. New claim 6 includes the limitations of the base claim (claim 1) and all intervening claims (2-5), and is therefore in condition for allowance.

Conclusion

Applicant agrees that the art made of record and not relied upon is not more pertinent to the claimed invention than the art cited.

If a notice of allowance cannot be entered for any reason, a telephone call to the undersigned at (727) 507-8558 is requested. Applicant thanks the Office for its careful examination of this important patent application.

Very respectfully,

SMITH & HOPEN

By: 

Ronald E. Smith
Suite 220
15950 Bay Vista Drive
Clearwater, FL 33760
(727) 507-8558
Registration No. 28,761
Attorneys for Applicant

Dated: January 30, 2006

pc: Mr. Todd C. Werner

CERTIFICATE OF FACSIMILE TRANSMISSION

(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment B, including Introductory Comments, Amendments to the Claims and Remarks, is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3653, Attn: Mr. Matthew J. Kohner, (571) 273-8300 on January 30, 2006.

Dated: January 30, 2006


April Turley